

THE ROMAN CATHOLIC BISHOP OF NUEVA SEGOVIA, PLAINTIFF AND APPELLANT, VS. JOSE PURUGGANAN ET AL. DEFENDANTS AND APPELLEES.

G.R. No. 8688. January 27, 1914

Ponente: CARSON, J.

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CARSON, J.:

The plaintiff in this action seeks to recover from the defendants 38,000 manojos of rice or its money value, which he alleges to be P5,700, on the ground that, as plaintiff alleges, these defendants are the heirs of one Dona Josef a de la Rosa, deceased, and as such heirs have received from her estate certain lands upon conditions which obligate them to deliver to plaintiff or his lawful representatives 2,800 manojos of rice annually, and that they have neglected and failed to make any such annual deliveries since the year 1903.

This charge, as plaintiff alleges, was placed on the lands inherited by defendants by the twenty-fourth clause of the will of Dona Josef a de la Rosa, deceased, which was executed in the year 1746. The clause of the will in question is alleged to be as follows:

"CLAUSE 24.—Item.—I declare and direct my said administrator and heir, as my last wish and for the good of my soul, that my said lands yielding 9,000 manojos be given in rental for the thirds that amount to 3,000 manojos, as I have always given them, to various persons and that he continue it every year; and of said lands my said administrator and heir shall deliver 2,000 manojos to whoever may be the very reverend father prior of said Bantay, whom I request and pray in recompense from him that he order celebrated four masses with their vigils for the good of my soul and that of my said husband, and I charge my said brother with looking after and promptly executing this said clause, doing so as my last, wish, with the declaration that of the remainder for the completion of said 3,000 manojos, there be given 300 for Services for the dead, 500 he shall give and deliver to the steward of the Confraternity of Our Lady of the said Bantay, and the 200 to complete the said 1,000 remaining he deliver to whoever may be the very reverend prior of said pueblo, whom I likewise pray to order celebrated the masses that may be due therefor to be applied to the souls alone in purgatory, and that it may be recorded, I so declare.

"Item.—I declare and revoke and annul any other instruments, codicils, testaments, and other dispositions that I may heretofore have made, and solemnly provide that it is my wish that none other than the present prevail or be accepted in or out of court; so I sign, having as witnesses Don Manuel de Jesus, the officers of this court with me as interpreters and my said associates, and of that I bear witness.—Josef Verzosa, Juez Receptor.—Josefa de la Rosa.—Dionisio Venegas.—Felipe Panlasiqui.—Cristobal de Zales."

Passing all questions as to the proper construction of the will and of its effect as an alleged perpetual charge on the lands therein described, it is very manifest that in no event could judgment be rendered in favor of the plaintiff without proof that these defendants received the lands mentioned in the will subject to the charge imposed by the above-cited clause 24. At the trial, plaintiff undertook to prove that the defendant Don Jose Purugganan and his co-defendants are the heirs of Dona Josefa de la Rosa, deceased; that Don Jose Purugganan is the administrator of

the lands mentioned in the will; that certain lands now held by the defendants are the lands mentioned in the will; and that these lands are and have been held by them subject to the annual charge imposed by the will. After a careful review of the whole record we are satisfied that the judgment entered in the trial court in favor of the defendants must be sustained, the evidence introduced at the trial not being sufficient to sustain any of these contentions.

As the trial judge well says, the most that can be said for the testimony introduced by the plaintiff is that it tends to prove that throughout the latter half of the last century a considerable amount of rice was received annually by the representatives of the church and credited as a donation under the will of Dona Josef a de la Rosa, deceased; but the evidence introduced at the trial fails utterly to establish the allegations of the complaint as to the existence of an obligation imposed upon these defendants to make any such deliveries.

Arellano, C. J., Moreland, Trent, and Araullo, JJ., concur.

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